

**Supporting Statement for Bids and Financial Statements
for Sale of Royalty Oil and Gas (RIK Pilot Study);
Form MMS-4440, Summary of Receipt and Delivery Volumes;
Report of Gas Analysis; and Letters of Credit
(OMB Control Number 1010-0129)**

A. JUSTIFICATION

1. What circumstances make the collection necessary?

Minerals Management Service (MMS) is the Federal agency responsible for management of Federal offshore minerals development and the collection of minerals revenues associated with Federal lands. Taking and sale of the Government's royalty share in the form of production or "in kind" (RIK) is authorized by the Mineral Leasing Act (MLA), 30 U.S.C. 192, for onshore leases and the Outer Continental Shelf Lands Act (OCSLA), 43 U.S.C. 1353, for offshore leases. (Attachment 1) Recommendations in an MMS 1997 Feasibility Study concluded that, under the right conditions, RIK could be workable, revenue positive, and administratively more efficient for Government and industry. Pursuant to the 1997 study's recommendations, MMS is conducting the following:

- An RIK pilot for oil from Federal leases in Wyoming which began October 1, 1998;
- An RIK pilot for gas from Federal leases offshore the State of Texas [Texas 8(g)] which began December 1, 1998; and
- An RIK pilot for gas from Federal offshore leases in the Gulf of Mexico (GOM) Region which began October 1999. This will involve the largest production volumes.

The feasibility and cost-effectiveness of MMS providing RIK production direct to other Federal agencies for their consumption is also being investigated in conjunction with the pilots.

MMS, as the responsible steward of Federal mineral revenues, is conducting these pilot programs of oil and gas RIK sales and investigation of direct Federal consumption to show conclusively whether or not RIK is viable for the Federal Government, and, if so, how, when, and where it makes sense to exercise the RIK option.

The collections of information addressed in this information collection request (ICR) are necessary because the Secretary of the Interior is obligated to hold competition when selling to the public, to protect actual RIK production before, during, and after any sale, and obtain a fair return on royalty production sold. MMS must fulfill those obligations for the Secretary. The reporting requirements are as follows:

- a. The actual bids potential purchasers will submit when MMS offers production for competitive sale;
- b. Bidders' statements of financial qualification;

- c. Form MMS-4440, Summary of Receipt and Delivery Volumes;
- d. Report of Gas Analysis (RGA); and
- e. Letters of Credit (LOC).

OMB previously approved items a and b under an emergency ICR on May 21, 1999. On January 3, 2000, MMS met with OMB to discuss additional reporting requirements that were recently identified concerning sales activities that are part of MMS's RIK pilot programs (items c and d). OMB agreed that MMS could add these additional requirements to this ICR during its renewal. Also, in our discussions with OMB, it was decided that it was not necessary to address item e because less than 10 respondents are expected. However, we are including this requirement in this ICR to avoid violation of the Paperwork Reduction Act if more than nine respondents do choose to file an LOC.

2. How, by whom, and for what purpose is the information to be used?

a. Bids. MMS will evaluate bids which competing potential purchasers may choose to submit in response to a variety of types of offerings in all three pilots. The format for bids will be specified in the offering and may vary among offerings. MMS may offer royalty oil and gas production by one-time Invitation for Bids or monthly announcements of availability. The latter will be open only to bidders who have previously established their qualifications. MMS will evaluate all bids to determine which combination of price and other terms comprises the best return to the Federal Treasury and to any affected State.

b. Financial statements or other related qualification information. MMS may request that a bidder submit its publicly available statement of its financial condition (brought briefly up-to-date, if needed) or other related qualification information. MMS evaluates the qualification information to determine whether it is highly probable that a bidder will reliably follow through on payment of the dollar amount (or delivery of exchange production) offered as its bid and will also timely perform activities attendant to the taking of oil and/or gas. This is done to reduce the risk to the Government in these transactions.

c. Form MMS-4440, Summary of Receipt and Delivery Volumes. If the successful bidder(s) under an offering enter into a contract with MMS to deliver their gas as payment for MMS's RIK oil or gas, they will submit Form MMS-4440 (Attachment 2). The form requires information about the dates, locations, and quality and quantity pertinent to RIK volumes it has been both nominated to receive and actually received from MMS. The same information is required for other volumes it owes MMS. This form, which provides daily information and a summary, is submitted monthly for each pipeline from which each contractor takes Federal royalty gas. MMS will use this information to monitor timely performance of contract terms by the contractor submitting the information. We would like to use Form MMS-4440 as a pilot form with the flexibility to make minor modifications to its format and data elements for selected offerings to see which form works best. Form MMS-4440 will be required only from winning bidder(s) and only in certain sales. The form will not be used until the end of May 2000. This form is a new requirement and was discussed with OMB at the January 3 meeting. OMB agreed

that we could add it to this renewal.

d. RGA. This information will be submitted annually upon request by MMS. MMS may use the information to corroborate that the contractor is delivering gas of the quality specified under terms of their contract with us. This information is commonly provided by gas pipeline companies to companies they do business with, such as our contractors. It is generally comprised of a statement of the physical composition of the gas stream, e.g., mol % of the various natural gas liquids, such as propane, entrained in the methane. MMS will not specify a format but will accept a copy of a report supplied to the contractor by a pipeline company. This is also a new requirement and was discussed with OMB at the January 3 meeting. OMB agreed that we could add it to this renewal.

e. LOC. In some cases, MMS will accept an LOC, in lieu of, or in addition to, submission of a financial statement. No specific format is required for LOCs. The information an LOC must contain is specified as follows: (1) bank letterhead; (2) effective date; (3) amount of LOC; (4) name of contractor; (5) contract number; (6) bank ABA number; and (7) expiration date of the letter of credit. MMS expects fewer than five businesses annually will opt to submit LOC's once or twice a year. We are revising this ICR to include this new requirement in case more than nine businesses submit this information.

3. Does the collection involve the use of electronic technology to reduce the burden?

a. Bids. The bid itself is part of a formal competitive process, which, in its entirety, is safeguarded by MMS contracting officers. Where feasible (about 50 percent of the time), bids may be initially submitted by telefax, e-mail, electronic trading systems, or tape-recorded telephone conversations to expedite review. However, to assure demonstrable integrity of the process, such bids must be confirmed by submitting a signed hard copy thereafter.

b. Financial statements or other related qualification information. The financial statement may be initially submitted by telefax or e-mail. However, to assure demonstrable integrity of the process, they must be confirmed by submitting a signed hard copy thereafter.

c. Form MMS-4440. MMS encourages submission of this information as an electronic spreadsheet, transmitted to MMS by electronic means.

d. RGA. MMS encourages submission by electronic reporting.

e. LOC. Use of electronic technology is not appropriate for LOC's. To be legally binding, an LOC must be submitted to MMS in hard copy with original signatures.

4. Is the information duplicated by any other Federal agency, and can similar information be used or modified for this collection?

a. Bids. This information is not duplicated by any other Federal agency. Similar

information cannot be modified for this purpose. Only bidders (or their authorized agents) can submit their bid. It must be uniquely generated and submitted under MMS's controlled and impartial competitive process.

b. Financial statements or other related qualification information. This information is not duplicated by any other Federal agency. Bidders and potential bidders must have the opportunity to submit current, updated financial information which is known only to them.

c. Form MMS-4440. This information is not duplicated by any other Federal agency. It is uniquely generated and submitted under MMS's controlled and impartial competitive process. There is no similar information available.

d. RGA. No other Federal agency has this information. However, MMS will accept a copy of information the contractor has received from other businesses.

e. LOC. This information is not duplicated by any other Federal agency. By its nature, an LOC must be submitted by the contractor not another Federal agency.

5. What methods are used to minimize the burden on small businesses or other small entities?

a. Bids. The burden of submitting a bid is minimal, and MMS has streamlined it as much as possible for the benefit of businesses of all sizes. Bidders are provided a list of offered properties and relevant information about location and pipeline connections. They need only enter the price they are offering on the list and return it with a signature page to MMS. Most oil and gas from private sources is now marketed under similar competitive processes. Any business MMS would find qualified to bid and purchase MMS's oil and gas production would already be researching the market to establish their offering price and would have no trouble meeting the minimal burden of submitting a competitive bid.

b. Financial statements or other related qualification information. Companies of all sizes routinely maintain and seek the requested information in the normal course of business. Therefore, submitting the information to MMS will not place undue burden on small businesses.

c. Form MMS-4440. Any company capable of purchasing and disposing of oil or gas packages of the quantity and value that MMS will offer would assure that it had access to the required data in automated form to balance their volumetric accounts with other sellers, with pipelines, and with purchasers. Providing an electronic summary to MMS would not be burdensome for small or large oil and gas purchasers.

d. RGA. These are routinely provided to parties of gas sales transactions. The burden of providing a copy to MMS is minimal regardless of company size.

e. LOC. Small businesses requested that MMS accept an LOC to protect the Government against loss in lieu of relying solely on the small business' financial statement as a

predictor of performance. They did so in the belief that some small businesses might not qualify for RIK contracts if MMS evaluated them solely on their financial statements. The LOC alternative may not reduce information collection burden, but it does enhance the opportunity for small businesses to participate in the RIK Pilots, as they requested, without significantly increasing their information collection burden.

6. Are there any technical or legal obstacles to reducing the burden, and what are the consequences to the Federal program if the information is not collected or is collected less frequently?

a. Bids. The MLA (30 U.S.C.192) and the OCSLA (43 U.S.C. 1353) require public competition for sale of RIK. To demonstrate competition, MMS must collect bids addressing relevant economic factors in writing from potential purchasers of Federal royalty oil or gas. MMS is utilizing different bid structures and frequencies in different types of offerings and may discover some are less burdensome than others, while still meeting legal criteria. For instance, in some cases, contracts will be only for 30 days, so bids will be frequent (monthly) and simple to submit. MMS may offer contracts of longer duration or offer RIK at the lease in return for other production delivered by the bidder to another location or require performance of a service as part of the purchase. Such bids would be submitted less frequently and be more complex to present. If this information was not submitted, MMS could not meet the legal requirement to compare competitive bids (prices) for RIK. MMS could not sell its Federal royalty production, and the public could not buy the Federal royalty production.

b. Financial statements or other related qualification information. Royalty oil and gas are public assets which must be protected. The successful bidder is contracting to provide an offered sales price and /or required service in return for receipt of the Government's RIK production. The interests of the public in actually receiving the price and/or service are best protected by the provision of information, prior to a bid being awarded, about the bidders' qualifications to perform. This permits MMS to avoid selling to a bidder who is a poor risk. The bidder must be given the opportunity to submit their own information. The consequences to the public of MMS awarding a contract and delivering royalty production to a financially unqualified bidder is that they may fail to perform services (such as arranging to take the gas) and fail to pay for royalty oil or gas taken. This would result in MMS incurring monetary penalties or storage fees for failure to take oil or gas from the pipeline company, administrative costs to pursue payment, and possibly loss to the public of the value of the royalty production, if the bidder becomes bankrupt. If the Government or the Government's lessee(s) must sell oil or gas on an emergency basis because it was not taken by the purchaser, they also would likely be unable to obtain full market value for the production and would incur additional administrative costs.

c. Form MMS-4440. Again, royalty oil and gas are public assets that must be protected. To assure MMS receives the full value of production in return for RIK production transferred to the contractor, MMS must assure that, in a descending market, the production we are due is valued at the earliest appropriate time (before it has lost value). Similarly, in a rising market, MMS must assure that production due the agency is promptly delivered, so its value may accrue

to the Government, rather than to the contractor, which would be the case with a delay. Therefore, monthly reports of daily activity are needed. The quality of production also affects its value and is implicit in the MMBtu units of measure.

d. RGA. The value of the gas stream varies greatly according to the proportion (mol %) of the components identified in the RGA. MMS must have access to information reported on the RGA to protect the public's interest in the value of the royalty production.

e. LOC. As stated above, LOC's are accepted in the oil or gas RIK Pilots at the request of small businesses. If needed, they would be submitted only once or twice a year to cover contract terms of 1 to 6 months. They would be used to protect the public's interest in the value of the RIK production and to offset any penalties or storage fees should the contractor default.

7. Are there any special circumstances that require exceptions to 5 CFR 1320.5(d)(2)?

a. Bids. The frequency of offers of availability for sale and length of contracts for Federal royalty oil and gas will vary, consistent with market practices and current conditions. Some royalty production will be offered monthly and for a 30-day contract period only. Some monthly offerings may have longer contract terms. Other offerings will be made twice a year (seasonally) or quarterly and for contract terms of 6 months or more.

b. Form MMS-4440. This form will be submitted on a monthly basis not quarterly and is required to permit MMS to adequately protect the public's interest in value of the gas which is the subject of this information collection. The reasons are given in 6d above.

8. Describe efforts to consult with the public and a representative sample of respondents?

MMS has met with numerous potential customers to prepare for the pilots by gaining an understanding of how commercial oil and gas sales auctions take place. These companies shared their knowledge about the information required by oil and gas industry business practices. We developed our requirements to be as consistent as possible with those practices and be as free of burden as possible. Small businesses requested that MMS accept an LOC to protect the Government against loss in lieu of relying solely on the small business' financial statement as a predictor of performance. They did so believing some small businesses might be excluded from RIK contracts if MMS evaluated them solely on their financial statements.

MMS published a 60-day Federal Register Notice on August 4, 1999 (64 FR 42410) to solicit comments on renewing OMB's approval for this ICR relative to bids and pre-qualification documents (Attachment 3). No comments were received.

9. Will payment or gifts be provided to respondents?

No. There will not be any payment or gifts to respondents.

10. What assurance of confidentiality is provided to respondents?

The winning bidders names are released but not the amounts or terms of winning bids. MMS securely stores any trade secrets and proprietary information in bids, financial statements, LOC's and Forms MMS-4440. The information in RGA's is considered public. MMS limits access to trade secrets and proprietary information as required by applicable regulations of the Department (43 CFR 2).

11. Does the information collected include any questions of a sensitive nature?

No. None of the information requested is considered sensitive.

12. Estimated reporting and recordkeeping "hour" burden of the collection of information?

a. Bids. We anticipate about 37 respondents will submit bids in each fiscal year (FY) across all three pilots and considering all types of offerings. Some bidders will respond to only one offering each year, while other respondents will submit bids as often as monthly. MMS expects about 747 bids in the highest years—FY's 2001 and 2002. The average time needed to prepare, submit, and create file copies of a bid is 1 hour. Therefore, the annual reporting and recordkeeping burden is estimated to be 747 hours. The annualized cost to respondents is estimated to be \$37,350 (747 burden hours x \$50 per hour).

b. Financial statements or other related qualification information. Companies will, in addition to submitting a bid, also submit their publicly available financial statements or other related qualification information. MMS expects to receive 25 financial statements in FY 2000 and probably less thereafter. It is a customary business practice to have a publicly available financial statement, so minimal burden hours are associated with creating the statement itself for all but a few respondents. The average time needed to review the instructions, prepare, update, submit, and create file copies of a financial statement is 1 hour per respondent. Therefore, the annual reporting and recordkeeping burden is estimated to be 25 hours. The annualized cost to respondents is estimated to be \$1,250 (25 burden hours x \$50 per hour).

c. Form MMS-4440. We anticipate that no more than 6 successful bidders on some large offerings will enter into "exchange" contracts with MMS to deliver gas to MMS in return for Federal RIK (royalty) gas they took. They will use this form to report to us monthly for each pipeline from which they take RIK gas: (1) the daily amount and quality (volume expressed as MMBtu's) of MMS's royalty share of gas production they were scheduled (nominated) to take; (2) the daily amount and quality of MMS's royalty share of gas production they actually took; (3) the daily amount and quality of gas they were scheduled to deliver to MMS as equivalent volumes; and (4) the daily amount and quality of gas they actually delivered to MMS as equivalent volumes. We estimate electronic reporting of the data should take about .5 hour per pipeline report (1 line for each day @ 1 minute per line = .5 hour). MMS expects to offer gas for exchange from about 15 pipeline systems in the highest year—FY 2002. The annual reporting and recordkeeping burden is estimated to be 540 hours (6 respondents x 12 months x 15 pipelines = 1,080 responses x .5 hour). The annualized cost to respondents is estimated to be \$27,000 (540 hours x \$50 per hour).

d. RGA. MMS anticipates requesting this data from about six “exchange” contractors in the highest years—FY’s 2001 and 2002. These contractors will be delivering gas to MMS in return for royalty gas taken. The data will be submitted once a year for each delivery point of which there are expected to be about 10 in those years. MMS estimates it will take less than .5 hour per delivery point to locate, copy, and mail the information, which is routinely provided to the respondents by their pipeline companies. Therefore, the annual reporting and recordkeeping burden is 5 hours (10 delivery points x .5 hour = 5 hours). The annualized cost to respondents is estimated to be \$250 (5 burden hours x \$50 per hour).

e. LOC. MMS expects fewer than five businesses annually may elect to submit an LOC, and they will do so one to two times annually. The estimated time to prepare, submit, and set up a file copy of an LOC is 1 hour. Therefore, the annual reporting and recordkeeping burden is estimated to be 7 hours (7 responses x 1 hour = 7 hours). The annualized cost to respondents is estimated to be \$350 (7 burden hours x \$50 per hour).

See the Table after Section B for a summary of industry burden.

13. Estimated reporting and recordkeeping “non-hour” burden of the collection of information?

This collection of information will require total capital costs of \$1,500 (\$250 by each of about 6 respondents) to adjust their automated production reporting systems to provide information to MMS in Form MMS-4440 format.

14. Estimated annualized cost to the Federal Government?

a. Bids. It is estimated that it will take the Government 1 ½ hours to analyze each bid. Therefore, evaluation of bids will cost the Government approximately \$56,025 in FY 2002—the highest year (747 x 1 ½ hours each x \$50 per hour).

b. Financial statements or other related qualification information. It is estimated that it will take the Government 2 hours to analyze this information. Therefore, evaluation of financial statements will cost the Government approximately \$2,500 in the highest year—FY 2000 (25 statements x 2 hours each x \$50 per hour).

c. MMS Form-4440. Comparison of the information on this form to corroborate data will require about 10 hours per month in the highest years and will cost the Government approximately \$6,100 (10 hours x 12 months = 122 x \$50 per hour).

d. RGA. Comparison of this information to purchase data will require about 10 hours per year in the highest years—FY’s 2001 and 2002 and will cost the Government approximately \$500 annually (10 hours x \$50 per hour).

e. LOC. It is estimated that it will take the Government 2 hours to analyze and file each LOC. Therefore, handling LOC’s will cost the Government less than \$700 in FY’s 2000, 2001, and 2002 (7 LOC’s x 2 hours each x \$50 per hour).

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of Form OMB 83-I.

The burden hours in OMB's Inventory are increased from 142 hours to 1,324 burden hours. This increase is due to an adjustment and a program change. The adjustment of 630 hours for bids and financial statements (from 142 hours to 772 hours) resulted from increased opportunities to bid that were created by MMS's planned offering of more RIK production volumes from additional pipeline systems. A program change of 552 hours is a result of the additional reporting and recordkeeping requirements that were recently identified for Form MMS-4440, Report of Gas Analysis, and Letters of Credit.

16. Will the results of the information collection be published?

Overall results of the pilot will be reported to MMS management, interested State and industry organizations, and legislators. Proprietary data in individual submissions will be protected.

17. Is the agency seeking approval not to display the expiration date?

MMS is not seeking an exemption to display the expiration date of OMB's approval. This information will appear on Form MMS-4440.

18. Is the agency requesting exceptions to the certification statement in Item 19 of Form OMB 83-I?

No. Collection of this information complies with the "Certification for Paperwork Reduction Act Submissions" of OMB Form 83-I.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable. Information that is the subject of this collection is required to satisfy statutory requirements to obtain fair return on the public's resources in the context of a competitive sale. Statistical sampling cannot provide this information.

SECTION A.12 BURDEN BREAKDOWN

Reporting/ Recordkeeping Requirements	Estimated Number of Respondents	Annual Frequency	Estimated Number of Responses Per Yr	Burden Per Requirement	Annual Burden Hours
Bids	37	On Occasion	747	1 Hour	747
Financial Statements	25	On Occasion	25	1 Hour	25
Summary of Receipt and Delivery Volumes (Form MMS-4440	06	Monthly	1,080	.5 Hour	540
Report of Gas Analysis	06	On Occasion	10	.5 Hour	05
Letters of Credit	05	On Occasion	07	1 Hour	07
Total Reporting	79*		1,869		1,324 Hours

*NOTE: A respondent is counted each time a different form is submitted. Unsuccessful bidders will submit only 2 responses.